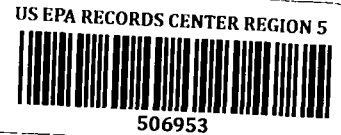




U.S. Department of Justice

FXH:edp

United States Attorney  
District of Minnesota



234 United States Courthouse  
Minneapolis, Minnesota 55401

FTS/781-7430  
612/332-8961

January 27, 1982

Ms. Rosemarie R. Schlichting  
Calendar Clerk for Judge Magnuson  
708 U.S. Courthouse  
316 North Robert Street  
St. Paul, MN 55101

Re: United States of America v. Reilly Tar, et al  
Civil No. 4-80-469

Dear Ms. Schlichting:

Enclosed for Judge Magnuson's consideration please find the original and one copy of the Statement of the Case in the above-entitled matter.

Sincerely yours,

JAMES M. ROSENBAUM  
United States Attorney

BY: FRANCIS X. HERMANN  
Assistant United States Attorney

Enclosure-2

cc: Stephen Shakman, Esq.  
Allen Hinderaker, Esq.  
Joseph C. Vesely, Esq.  
Thomas W. Wexler, Esq.  
Laurance R. Waldoch, Esq.  
James T. Swenson, Esq.  
Edward J. Schwartzbauer, Esq.  
Erica Dolgin, Esq.  
Richard Emory, Jr., Esq.  
✓ Robert Leininger, Esq.

UNITED STATES DISTRICT COURT  
DISTRICT OF MINNESOTA  
FOURTH DIVISION  
Civil No. 4-80-469

UNITED STATES OF AMERICA, )  
 )  
Plaintiff, )  
 )  
and )  
 )  
STATE OF MINNESOTA, by its )  
Attorney General, Warren )  
Spannaus, its Department )  
of Health, and its Pollution )  
Control Agency, )  
 )  
Plaintiff- )  
Intervenor, )  
 )  
v. )  
 )  
REILLY TAR & CHEMICAL )  
CORPORATION; HOUSING AND )  
REDEVELOPMENT AUTHORITY )  
OF ST. LOUIS PARK; OAK PARK )  
VILLAGE ASSOCIATES; RUSTIC )  
OAKS CONDOMINIUM, INC.; and )  
PHILIP'S INVESTMENT CO., )  
 )  
Defendants. )  
 )  
and )  
 )  
CITY OF ST. LOUIS PARK, )  
 )  
Plaintiff- )  
Intervenor, )  
 )  
v. )  
 )  
REILLY TAR & CHEMICAL )  
CORPORATION, )  
 )  
Defendant. )  
 )  
and )  
 )  
CITY OF HOPKINS, )  
 )  
Plaintiff- )  
Intervenor, )  
 )  
v. )  
 )  
REILLY TAR & CHEMICAL )  
CORPORATION, )  
 )  
Defendant. )

PLAINTIFF'S,  
UNITED STATES OF AMERICA,  
STATEMENT OF CASE

The plaintiff, United States of America, submits the following information in response to this Court's Order of December 31, 1981:

1. Name and address of client:

United States of America.

2. Name of insurance carriers involved, if any:

None.

3. A concise statement of the party's version of the facts of the case:

This is a civil action brought by the United States of America on behalf of the Administrator of the United States Environmental Protection Agency to repair the harm caused, and prevent the future harm posed, by pollution of the ground and waters in and around the City of St. Louis Park, Minnesota. The activities of the defendant Reilly Tar and Chemical Corporation, who operated a creosote oil plant at the site in St. Louis Park from about 1917 to 1972, have resulted in the disposal, leaching, and migration of hazardous and other chemical wastes into the ground and waters of the City of St. Louis Park with substantial adverse effects at present and potentially more adverse effects in the future. This action seeks a judgment that the handling, storage, treatment and disposal of hazardous and other chemical wastes by the defendant Reilly Tar are presenting and may present an imminent and substantial endangerment to health and the environment, within the meaning of Section 7003 of the Resource Conservation and Recovery Act, 42 U.S.C.A. §6973, as amended by the Solid Waste Disposal Act Amendments of 1980, Pub. L. No. 96-482 (Oct. 21, 1980), 94 Stat. 2348. This action also seeks a judgment that there is and may be an imminent and substantial endangerment to the public health and welfare and to the environment because of actual and threatened releases of hazardous substances from the facility owned and operated by Reilly Tar in the City of St. Louis Park, within the meaning of Sections 106 and 107 of the Comprehensive Environmental Response, Compensation, and Liability Act of 1980, Pub. L. No. 96-510 (December 11, 1980), 94 Stat. 2767, 42 U.S.C.A. §§9606 and 9607. Plaintiff seeks injunctive relief, including remedial measures, and the response costs incurred by the plaintiff.

4. If a discovery termination date has not been set, discovery procedures necessary for trial:

- a. List of discovery completed to date;
- b. List of discovery to be completed;
- c. Date when all discovery will be completed.
- a. No discovery has been initiated by any party to this federal action. However, a deposition was taken and interrogatories answered, and documents produced in a

State Court action between the State of Minnesota and Reilly in a stayed proceeding. That discovery is incorporated in this action to avoid duplication of effort.

- b. Numerous depositions need be taken of past witnesses and experts. It is expected that additional Interrogatories will be served and Requests for Production and Admissions filed.
- c. Discovery will be lengthy and complicated, requiring about 15 months to complete, or approximately April 1983.

5. Contemplated dispositive and non-dispositive motions:

A Motion to Dismiss was argued before this Court on January 15, 1982. We are awaiting a ruling. No other motions are contemplated for the immediate future.

6. Possibility of settlement:

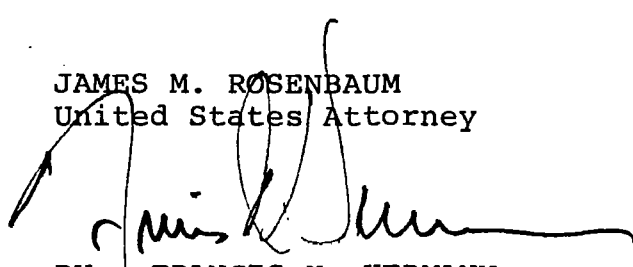
The parties continue to explore the possibility of settlement.

7. Estimated time of trial (including jury selection and jury charge, if relevant):

We anticipate that this will be a lengthy trial. We further suggest that a schedule be established for quarterly status conferences before a United States Magistrate.

Dated: 1-26-82

JAMES M. ROSENBAUM  
United States Attorney



BY: FRANCIS X. HERMANN  
Assistant United States Attorney